

Senate Bill 430

By: Senators Unterman of the 45th, Thomas of the 54th, Goggans of the 7th, Balfour of the 9th and Butler of the 55th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, so as to provide for a multistate compact, short title, findings, purposes, and definitions; to provide for multistate licensures to practice telephonic nursing as a registered nurse and to provide for qualifications, sanctions, practices, and procedures relating thereto; to provide for administrators and their powers and functions and practice limitations; to provide for license recognition; to provide for application and license restrictions; to provide for change of residence; to provide for reports, investigations, and adverse actions; to provide additional powers to the Georgia Board of Nursing; to provide for a coordinated licensure information system and confidentiality and expungement relating thereto; to provide for immunity from liability; to provide for effective dates and amendment of and withdrawal from the compact; to provide for other agreements; to provide for construction and severability; to provide for dispute settlement; to provide for effective date and automatic repeal; to change the provisions relating to definitions for the "Georgia Registered Professional Nurse Practice Act"; to change the powers of the Georgia Board of Nursing; to change provisions regarding use of certain titles and identification requirements; to change provisions relating to denial or revocation of licenses; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is amended by adding a new article to read as follows:

"ARTICLE 4

43-26-70.

(a) This article shall be known as the 'Nurse Licensure Compact.'

(b) The Nurse Licensure Compact as set forth in this article is hereby enacted into law and entered into with all other jurisdictions legally joining therein.

43-26-71.

(a) The General Assembly finds that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurses licensure laws;

(2) Violations of nurse licensure and other laws requiring the practice of nursing may result in injury or harm to the public;

(3) That expanded mobility of nurses and the use of advanced communication technologies, including, but not limited to telephonic nursing as part of Georgia's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) That new practice modalities and technology make compliance with individual state nurse licensure difficult; and

(5) That the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

(b) The General Assembly enters into a multistate nurse license compact for the purpose of:

(1) Facilitating the state's responsibility to protect the public's health and safety;

(2) Ensuring and encouraging the cooperation of party states in the areas of nurse licensure and regulation;

(3) Facilitating the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(4) Promoting compliance with the laws governing the practice of nursing in each jurisdiction;

(5) Investing the state with the authority to hold a nurse accountable for meeting all the state practice law when the patient is located in the state where care is rendered through the mutual recognition of party state licenses; and

(6) Enabling registered professional nurses in party states to practice telephonic nursing in a manner consistent with this compact.

43-26-72.

As used in this article, the term:

(1) 'Adverse Action' means a home or remote state action.

(2) 'Alternative program' means a voluntary, nondisciplinary monitoring program approved by the Georgia Board of Nursing.

60 (3) 'Compact' means the Nurse Licensure Compact provided for by this article.

61 (4) 'Coordinated licensure information system' means an integrated process for
62 collecting, storing, and sharing information on nurse licensure and enforcement activities
63 related to nurse licensure laws, which is administered by a nonprofit organization
64 composed of and controlled by state nurse licensing boards.

65 (5) 'Current significant investigative information' means:

66 (A) Investigative information that the Georgia Board of Nursing, after a preliminary
67 inquiry that includes notification and an opportunity for the nurse to respond, has
68 reason to believe is not groundless and, if proved true, would indicate more than a
69 minor infraction; or

70 (B) Investigative information that indicates that the nurse represents an immediate
71 threat to public health and safety regardless of whether the nurse has been notified and
72 had an opportunity to respond.

73 (6) 'Home state' means the party state which is the nurse's primary state of residence.

74 (7) 'Home state action' means any administrative, civil, equitable, or criminal action
75 permitted by the home state's laws which are imposed on a nurse by the home state's
76 licensing board or other authority including actions against an individual's license such
77 as: revocation, suspension, probation, or any other action which affects a nurse's
78 authorization to practice.

79 (8) 'Licensing board' means the party state regulatory body responsible for issuing nurse
80 licenses.

81 (9) 'Multistate licensure privilege' means current official authority from a remote state
82 permitting the practice of nursing as a registered nurse. All party states have the
83 authority, in accordance with existing state due process law, to take actions against the
84 nurse's privilege such as: revocation, suspension, probation, or any other action which
85 affects a nurse's authorization to practice.

86 (10) 'Nurse' means a registered nurse as defined by each party's state practice law.

87 (11) 'Party state' means any state that has adopted this compact.

88 (12) 'Remote state' means a party state, other than the home state;

89 (A) Where the patient is located at the time nursing care is provided; or

90 (B) In the case of the practice of nursing not involving a patient, in such party state
91 where the recipient of nursing practice is located.

92 (13) 'Remote state action' means:

93 (A) Any administrative, civil, equitable, or criminal action permitted by a remote
94 state's laws which are imposed on a nurse by the remote state's licensing board or other
95 authority including actions against an individual's multistate licensure privilege to
96 practice in the remote state; and

(B) Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.

(14) 'State' means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(15) 'State practice laws' means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. Such term shall not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

(16) 'Telephonic nurse' means a nurse practicing telephonic nursing.

(17) 'Telephonic nursing' means the practice of nursing, as a registered professional nurse, by the means of technology to provide communication over distances, for audio, video, and data communications, including, but not limited to telephone, facsimile transmissions, electronic mail, or a combination thereof.

43-26-73.

(a) A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice telephonic nursing as a registered nurse in such party state. In order to obtain or retain a license, an applicant shall meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

(b) Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(c) Every nurse practicing in a party state shall comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing shall not be limited to patient care but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

(d) This compact shall not affect additional requirements imposed by states for advanced practice registered nursing.

(e) Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

43-26-74.

(a) Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

(b) A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

(c) A nurse who intends to change his or her primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses shall not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

(d) When a nurse changes primary state of residency by:

(1) Moving between two party states and obtains a license from the new home state, the license from the former home state is no longer valid;

(2) Moving from a nonparty state to a party state and obtaining a license from the new home state, the individual state license issued by the nonparty state shall not be affected and shall remain in full force if so provided by the laws of the nonparty state; and

(3) Moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

43-26-75.

In addition to the general provisions described in Code Section 43-26-73, the following provisions apply:

(1) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports;

(2) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take any appropriate actions and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions;

(3) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state;

(4) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action;

(5) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action; and

(6) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain nonpublic if required by the party state's laws. Party states shall require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

43-26-76.

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

(1) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

(2) Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state, or both, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence, or both, are located;

(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state; and

(4) Promulgate uniform rules and regulations as provided for in subsection (c) of Code Section 43-26-78.

43-26-77.

(a) All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses. This system shall include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials to the coordinated licensure information system.

(c) Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(d) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(e) Any personally identifiable information obtained by a party states' licensing board from the coordinated licensure information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(g) The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

43-26-78.

(a) The division director of the professional licensing boards of Georgia shall be the administrator of this compact.

(b) The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents including, but not

limited to, a uniform data set of investigations, identifying information, licensure data, and
disclosable alternative program participation information to facilitate the administration of
this compact.

(c) Compact administrators shall have the authority to develop uniform rules to facilitate
and coordinate implementation of this compact. These uniform rules shall be adopted by
party states under the authority invested under paragraph (4) of Code Section 43-26-76.

43-26-79.

No party state, or the officers or employees or agents of a party state's nurse licensing
board, who acts in accordance with the provisions of this compact shall be liable on
account of any act or omission in good faith while engaged in the performance of their
duties under this compact. Good faith in this article shall not include willful misconduct,
gross negligence, or recklessness.

43-26-80.

(a) This compact shall enter into force and become effective as to any state when it has
been enacted into the laws of that state. Any party state may withdraw from this compact
by enacting a statute repealing the same but no such withdrawal shall take effect until six
months after the withdrawing state has given notice of the withdrawal to the executive
heads of all other party states.

(b) No withdrawal shall affect the validity or applicability by the licensing boards of states
remaining party to the compact of any report of adverse action occurring prior to the
withdrawal.

(c) Nothing contained in this compact shall be construed to invalidate or prevent any nurse
licensure agreement or other cooperative arrangement between a party state and a nonparty
state that is made in accordance with the other provisions of this compact.

(d) This compact may be amended by the party states. No amendment to this compact
shall become effective and binding upon the party states unless and until it is enacted into
the laws of all party states.

43-26-81.

(a) This compact shall be liberally construed so as to effectuate the purposes thereof. The
provisions of this compact shall be severable, and, if any phrase, clause, sentence, or
provision of this compact is declared to be contrary to the constitution of any party state
or of the United States or the applicability thereof to any government, agency, person, or
circumstance is held invalid, the validity of the remainder of this compact and the

applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

(b) In the event party states find a need for settling disputes arising under this compact:

(1) The party states may submit the issues in dispute to an arbitration panel which shall be composed of an individual appointed by the compact administrator in the home state; an individual appointed by the compact administrator in each remote state involved; and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(2) The decision of a majority of the arbitrators shall be final and binding.

43-26-82.

(a) This article shall become effective on January 1, 2011."

SECTION 2.

Said chapter is further amended by revising Code Section 43-26-3, relating to definitions for the "Georgia Registered Professional Nurse Practice Act," as follows:

"43-26-3.

As used in this article, the term:

(1) 'Advanced nursing practice' means practice by a registered professional nurse who meets those educational, practice, certification requirements, or any combination of such requirements, as specified by the board and includes certified nurse midwives, nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists in psychiatric/mental health, and others recognized by the board.

(1.1) 'Advanced practice registered nurse' means a registered professional nurse licensed under this chapter who is recognized by the board as having met the requirements established by the board to engage in advanced nursing practice and who holds a master's degree or other graduate degree from an approved nursing education program and national board certification in his or her area of specialty, or a person who was recognized as an advanced practice registered nurse by the board on or before June 30, 2006. This paragraph shall not be construed to require a certified registered nurse anesthetist who graduated from an approved nurse anesthetist educational program prior to January 1, 1999, to hold a master's degree or other graduate degree.

(1.2) 'Approved nursing education program' located in this state means a nursing education program approved by the board as meeting criteria established by the board.

An 'approved nursing education program' located outside this state means a nursing

education program that the board has determined to meet criteria similar to and not less stringent than criteria established by the board. In order to be approved by the board, a nursing education program must be one that is offered by:

(A) A unit of the University System of Georgia accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(B) An institution of the Technical College System of Georgia accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(C) A nonprofit postsecondary institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education; or

(D) A proprietary institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education.

(2) 'Board' means the Georgia Board of Nursing created in Code Section 43-26-4.

(2.1) 'Compact' means the Nurse Licensure Compact provided in Article 4 of this chapter.

(2.2) 'Compact administrator' shall be the division director of the professional licensing boards of Georgia.

(3) 'Consumer member' means a United States citizen and Georgia resident who is knowledgeable about consumer health concerns, does not derive that person's primary livelihood from the practice of nursing, and shall neither be, nor ever have been, a health care provider or enrolled in any health related educational program.

(4) 'License' means a current document, issued by the board, permitting a person to practice nursing as a registered professional nurse or a licensed undergraduate nurse. For purposes of discipline, such term includes the multistate licensure privilege to practice granted by the compact.

(5) 'Licensure' means the bestowing of a current license by the board permitting a person to practice nursing as a registered professional nurse or a licensed undergraduate nurse.

(6) 'Practice nursing' or 'practice of nursing' means to perform for compensation or the performance for compensation of any act in the care and counsel of the ill, injured, or infirm, and in the promotion and maintenance of health with individuals, groups, or both throughout the life span. It requires substantial specialized knowledge of the humanities, natural sciences, social sciences, and nursing theory as a basis for assessment, nursing diagnosis, planning, intervention, and evaluation. It includes, but is not limited to, provision of nursing care; administration, supervision, evaluation, or any combination thereof, of nursing practice; teaching; counseling; the administration of medications and treatments as prescribed by a physician practicing medicine in accordance with Article 2 of Chapter 34 of this title, or a dentist practicing dentistry in accordance with Chapter

11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35 of this title.

(7) 'Practice nursing as a licensed undergraduate nurse' means to practice nursing by performing for compensation selected acts in the care of the ill, injured, or infirm under the direction of a registered professional nurse, a physician practicing medicine in accordance with Article 2 of Chapter 34 of this title, a dentist practicing dentistry in accordance with Chapter 11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35 of this title.

(8) 'Practice nursing as a registered professional nurse' means to practice nursing by performing for compensation any of the following:

(A) Assessing the health status of individuals, groups, or both throughout the life span;

(B) Establishing a nursing diagnosis;

(C) Establishing nursing goals to meet identified health care needs;

(D) Planning, implementing, and evaluating nursing care;

(E) Providing for safe and effective nursing care rendered directly or indirectly;

(F) Managing and supervising the practice of nursing;

(G) Collaborating with other members of the health care team in the management of care;

(H) Teaching the theory and practice of nursing;

(I) Administering, ordering, and dispensing medications, diagnostic studies, and medical treatments authorized by protocol, when such acts are authorized by other general laws and such acts are in conformity with those laws;

(J) Administering medications and treatments as prescribed by a physician practicing medicine in accordance with Article 2 of Chapter 34 of this title, a dentist practicing dentistry in accordance with Chapter 11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35 of this title; or

(K) Performing any other nursing act in the care and counsel of the ill, injured, or infirm, and in the promotion and maintenance of health with individuals, groups, or both throughout the life span.

(8.1) 'Privilege to practice' means the authorization to practice telephonic nursing in the state as described in the compact.

(9) 'Registered professional nurse' means a person who is authorized by a license issued under this article or privileged under the compact to practice nursing as a registered professional nurse.

SECTION 3.

Said chapter is further amended by revising Code Section 43-26-5, relating to general powers of the board, as follows:

"(a) The board shall:

(1) Be responsible for the enforcement of the provisions of this article and shall be specifically granted all of the necessary duties, powers, and authority to carry out this responsibility;

(2) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems necessary for the administration and enforcement of this article in the protection of public health, safety, and welfare;

(3) Enforce qualifications for licensure;

(4) Develop and enforce reasonable and uniform standards for nursing education and nursing practice;

(5) Periodically evaluate nursing education programs and approve such programs as meet the board's requirements;

(6) Deny or withdraw approval from noncompliant nursing education programs;

(7) License duly qualified applicants by examination, endorsement, or reinstatement;

(8) Be authorized to issue temporary permits;

(9) Renew licenses of registered professional nurses and licensed undergraduate nurses in accordance with this article;

(10) Be authorized to set standards for competency of licensees continuing in or returning to practice;

(11) Set standards for and regulate advanced nursing practice;

(12) Be authorized to enact rules and regulations for registered professional nurses in their performing acts under a nurse protocol as authorized in Code Section 43-34-23 and enact rules and regulations for advanced practice registered nurses in performing acts as authorized in Code Section 43-34-25;

(13) Implement the disciplinary process;

(14) Be authorized to issue orders when a license is surrendered to the board while a complaint, investigation, or disciplinary action against such license is pending;

(15) Issue a limited license to practice nursing subject to such terms and conditions as the board may impose;

(16) Provide consultation and conduct conferences, forums, studies, and research on nursing education and nursing practice;

(17) Approve the selection of a qualified person to serve as executive director;

(18) Be authorized to appoint standing or ad hoc committees as necessary to inform and make recommendations to the board about issues and concerns and to facilitate communication amongst the board, licensees, and the community;

(19) Maintain membership in the national organization which develops and regulates the nursing licensing examination;

(20) Be authorized to collect data regarding existing nursing resources in Georgia and coordinate planning for nursing education and nursing practice;

(21) Determine fees; ~~and~~

(22) Adopt a seal which shall be in the care of the executive director and shall be affixed only in such a manner as prescribed by the board;

(23) Determine whether a right or obligation on license holders applies to nurses privileged to practice in this state under a license by a state that is a party to the compact unless that determination is inconsistent with the compact;

(24) Be responsible for taking action against registered professional nurses privileged to practice in this state under a license issued by a state that is a party to the multistate compact as authorized by the compact. The action shall be taken in accordance with the same procedures for taking action against a registered professional nurse licensed by Georgia;

(25) Provide, for a reasonable fee, a registered professional nurse licensed in Georgia with a copy of information regarding the nurse maintained by the coordinated licensure information system of the compact;

(26) Disclose personally identifiable information about the registered professional nurse, including social security number, to the coordinated licensure information system of the compact. The coordinated licensure information system shall not share personally identifiable information with a state not a party to the compact unless the state agrees not to disclose that information to any other person; and

(27) Enter into multistate compacts, contracts or agreements to facilitate the practice and regulation of nursing in this state."

SECTION 4.

Said chapter is further amended by revising subsections (a) and (c) of Code Section 43-26-6, relating to use of the title of registered nurse, as follows:

"(a) Any person who is licensed as a registered professional nurse or has a privilege to practice under the compact shall have the right to use the title 'registered professional nurse' and the abbreviation 'R.N.' Any person recognized by the board as an advanced practice registered nurse shall have the right to use the title 'advanced practice registered nurse' and the abbreviation 'A.P.R.N.' No other person shall assume such titles or use such

abbreviations or any other words, letters, signs, or symbols to indicate that such person is a registered professional nurse or an advanced practice registered nurse in Georgia. Nothing in this subsection shall be construed to repeal the right of any person who is licensed as a registered professional nurse or recognized by the board as an advanced practice registered nurse on June 30, 2006, to be licensed and to use the title 'registered professional nurse' or to use the title 'advanced practice registered nurse,' respectively."

"(c) Any person who is licensed as a registered professional nurse or has a privilege to practice under the compact shall identify that he or she is so licensed or privileged by displaying either the title 'registered professional nurse' or 'registered nurse,' the abbreviation 'R.N.,' the title 'advanced practice registered nurse,' or the abbreviation 'A.P.R.N.' on a name tag or other similar form of identification during times when such person is providing direct patient care. An advanced practice registered nurse shall meet the identification requirements of this subsection by displaying the title or abbreviation of his or her area of specialization."

SECTION 5.

Said chapter is further amended by revising Code Section 43-26-11, relating to denial or revocation of licenses, as follows:

"In addition to the authority granted in Code Section 43-1-19, the board shall have the authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or to discipline a licensee practicing under a Georgia license or who has a privilege to practice under the compact upon a finding by the board that the applicant or licensee has:

(1) Been convicted of any felony, crime involving moral turpitude, or crime violating a federal or state law relating to controlled substances or dangerous drugs in the courts of this state, any other state, territory, or country, or in the courts of the United States, including but not limited to a plea of nolo contendere entered to the charge; or

(2)(A) Displayed an inability to practice nursing as a registered professional nurse or licensed undergraduate nurse with reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

(B) In enforcement of this paragraph, the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by a board approved health care professional. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary law or rule. Every person who is licensed to practice nursing as a registered professional nurse or licensed undergraduate nurse in this state or who shall file an application shall be deemed to have given such person's consent to submit to such

483 mental or physical examination and to have waived all objections to the admissibility
484 of the results in any hearing before the board upon the grounds that the same constitutes
485 a privileged communication. If a licensee or applicant fails to submit to such an
486 examination when properly directed to do so by the board, unless such failure was due
487 to circumstances beyond that person's control, the board may enter a final order upon
488 proper notice, hearing, and proof of such refusal. Any licensee or applicant who is
489 prohibited from practicing under this paragraph shall at reasonable intervals be afforded
490 an opportunity to demonstrate to the board that such person can resume or begin to
491 practice with reasonable skill and safety nursing as a registered professional nurse or
492 licensed undergraduate nurse.

493 (C) In enforcement of this paragraph the board may, upon reasonable grounds, obtain
494 any and all records relating to the mental or physical condition of a licensee or
495 applicant, including psychiatric records; and such records shall be admissible in any
496 hearing before the board, notwithstanding any privilege under a contrary rule of law or
497 statute. Every person who is licensed as a registered professional nurse or licensed
498 undergraduate nurse in this state or who shall file an application shall be deemed to
499 have given such person's consent to the board's obtaining any such records and to have
500 waived all objections to the admissibility of such records in any hearing before the
501 board upon the grounds that the same constitute a privileged communication."

502 SECTION 6.

503 All laws and parts of laws in conflict with this Act are repealed.